

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

NATHAN "NATI" STOLIAR,

Defendant.

Case No. 2:14-cr-00006-APG-GWF

**ORDER REGARDING AD ASTRA'S
STATUS FOR RESTITUTION**

Ad Astra Energy, Inc. petitions the court to be included as a victim of defendant Nathan Stoliar's crimes under the Mandatory Victims Restitution Act. Ad Astra contends it purchased falsely generated renewable energy credits from Stoliar's criminal scheme and then sold those credits to others. Ad Astra argues it is a victim because these third parties are now demanding Ad Astra pay them for the invalidated credits. The Government responds that Ad Astra is not a victim because Ad Astra has not paid any funds to these third parties yet, and if it later does so it will step into the shoes of those victims for restitution purposes.

Under the Mandatory Victim Restitution Act ("MVRA"), I am required to order restitution when (1) the defendant is convicted of "an offense against property under [Title 18], including any offense committed by fraud or deceit"; and (2) there is "an identifiable victim or victims [who] suffered . . . pecuniary loss." *See* 18 U.S.C. § 3663A(a)(1), (c)(1). For purposes of the MVRA, a victim means "a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern." *Id.* § 3663A(a)(2). I may, in my discretion, "identify victims other than those brought to [my] attention by the government or the probation office." *United States v. Gamma Tech Indus., Inc.*, 265 F.3d 917, 924 (9th Cir. 2001). The party seeking to be included as

1 a victim bears the burden of demonstrating by a preponderance of the evidence that it is a victim.
2 *Id.*; 18 U.S.C. § 3664(e).

3 Ad Astra has not met its burden of proving by a preponderance of the evidence that it is a
4 victim because it has not proven it suffered pecuniary harm. Although Ad Astra was the party
5 initially defrauded into purchasing the falsely generated renewable energy credits, Ad Astra sold
6 those credits to other end users. The government has identified those other end users as victims in
7 this case. Some of these end users have threatened to sue Ad Astra after the EPA invalidated the
8 credits. However, Ad Astra has not presented evidence that it has paid on any of these claims. I
9 therefore find Ad Astra is not a victim as defined under the MVRA. As the government represented
10 at the hearing, if Ad Astra pays one of the identified victims, Ad Astra will stand in the shoes of
11 that victim for restitution purposes.

12 Dated: April 21, 2015.

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15 ANDREW P. GORDON
16 UNITED STATES DISTRICT JUDGE
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